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IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

EIGHTY-EIGHTH LEGISLATIVE DAY
THURSDAY, APRIL 3, 2003

Senate Chamber

President Risch called the Senate to order at 9 a.m.

Roll call showed all members present except Senators Andreason, Gannon, Little, Malepeai, McWilliams, Noh, Schroeder, and Stegner, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Brittany Jensen, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of April 2, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Malepeai, Noh, and Stegner were recorded present at this order of business.

April 2, 2003

The JUDICIARY AND RULES Committee reports that **S 1160** has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1160** and ordered it transmitted to the House for the signature of the Speaker.

April 2, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **S 1002**, as amended, **S 1010**, as amended, **S 1028**, **S 1079**, **S 1082**, **S 1097**, **S 1108**, as amended, as amended, **S 1119**, **S 1121**, **S 1127**, **S 1137**, **S 1139**, and **S 1166** were delivered to the Office of the Governor at 2:35 p.m., April 2, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

April 2, 2003

The HEALTH AND WELFARE Committee reports out **HCR 29** with the recommendation that it do pass.

BRANDT, Chairman

HCR 29 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

April 2, 2003

The RESOURCES AND ENVIRONMENT Committee reports out **H 44** and **H 284** with the recommendation that they do pass.

NOH, Chairman

H 44 and **H 284** were filed for second reading.

April 2, 2003

The STATE AFFAIRS Committee reports out **H 387**, **HJM 11**, and **H 385** with the recommendation that they do pass.

SORENSEN, Chairman

H 387 and **H 385** were filed for second reading.

HJM 11 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

April 2, 2003

The STATE AFFAIRS Committee reports out **H 374** with the recommendation that be referred to the Fourteenth Order of Business for amendment.

SORENSEN, Chairman

There being no objection, **H 374** was referred to the Fourteenth Order of Business, General Calendar.

April 2, 2003

The LOCAL GOVERNMENT AND TAXATION Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Coleen Grant to the Idaho State Tax Commission, term to expire March 8, 2009.

BUNDERSON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

Senators Andreason, Gannon, and Schroeder were recorded present at this order of business.

April 1, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I hereby advise you that I am returning to you, without my approval, disapproved and vetoed the following Senate Bill, to wit:

S 1154

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 2:15 p.m. on March 28, 2003.

I. INTRODUCTION

Senate Bill 1154 includes a general fund reduction of \$417,300 (7.1%) for the Idaho State Department of Agriculture (ISDA). This reduction will have a severe impact on services provided in the Bureau of Weights and Measures. Specifically, these reductions will result in a decreased ability to ensure accuracy and fairness on everything from grocery store and highway scales to gasoline pumps.

II. DISCUSSION

In Idaho, there are more than 6,000 scales in facilities such as grocery stores, commodity markets, transportation weigh stations, and gasoline/convenience stores. These scales range in weight from 0 to 100,000 pounds and fall under the purview of the Bureau of Weights and Measures in the Idaho State Department of Agriculture.

The ISDA currently employs eight inspectors who are charged to ensure the accuracy and functionality of these scales. Each year, these individuals inspect over 15,000 gas pumps for octane levels and volume, and they ensure the accuracy of over 850 other devices.

The Bureau of Weights and Measures also assists the Idaho State Police by inspecting truck scales, and fulfills the Food and Drug Administration's requirements on annual inspections on certain commodity scales, like those used in food processing plants like Green Giant.

This reduction will result in the elimination of up to five individuals in the Bureau amounting to a reduction in inspections per year to less than half of those currently conducted. The result is a program change that would essentially cause the Bureau to go from being proactive public service agency to a reactionary, complaint-based response system.

III. CONCLUSION

The Weights and Measures program helps ensure that citizens get what they pay for - at the pump, in the grocery store, and at the market. I have had discussions with Legislative leadership about alternative proposals that will achieve general fund savings while giving ISDA the ability to implement and administer the requirements of a weights and measures program. The public is entitled to the assurance provided by these services.

For these reasons, I hereby withhold my approval from, disapprove, and veto **Senate Bill 1154**.

Sincerely,
/s/ Dirk Kempthorne
Governor

The question being, "Shall **S 1154** become law, the Governor's veto notwithstanding?"

Senator Davis requested unanimous consent that **S 1154** be recommitted to the Finance Committee.

Senator Burkett objected.

Moved by Senator Davis, seconded by Senator Cameron, that **S 1154** be recommitted to the Finance Committee, the question being, "Shall the motion prevail?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Lodge, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Sweet, Williams. Total - 26.

NAYS--Burkett, Calabretta, Kennedy, Malepeai, Marley, Stennett, Werk. Total - 7.

Absent and excused--Little, McWilliams. Total - 2.

Total - 35.

More than two-thirds having voted in the affirmative, the President declared that the motion had prevailed, and **S 1154** was recommitted to the Finance Committee.

The correspondence from the Governor was ordered filed in the office of the Secretary of the Senate.

April 2, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

S 1149, S 1152, S 1153

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

April 2, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

S 1123, S 1157, S 1161

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

April 2, 2003

Mr. President:

I transmit herewith **H 381**, as amended, and **H 386**, as amended, and I return herewith **S 1165**, which have passed the House.

JUKER, Chief Clerk

H 381, as amended, and **H 386**, as amended, were filed for first reading.

S 1165 was referred to the Judiciary and Rules Committee for enrolling.

April 2, 2003

Mr. President:

I transmit herewith Enrolled **H 149, H 339, H 327, H 357, H 9**, as amended, as amended in the Senate, **H 150**, as amended in the Senate, and **H 64**, as amended, as amended in the Senate, for the signature of the President, and I return herewith Enrolled **S 1050, S 1053**, as amended, **S 1075, S 1102**, as amended, **S 1128, SCR 103, SCR 109, SCR 110, SJM 102**, and **SJM 103**, which have been signed by the Speaker.

JUKER, Chief Clerk

The President signed Enrolled **H 149, H 339, H 327, H 357, H 9**, as amended, as amended in the Senate, **H 150**, as amended in the Senate, and **H 64**, as amended, as amended in the Senate, and ordered them returned to the House.

Enrolled **S 1050, S 1053**, as amended, **S 1075, S 1102**, as amended, and **S 1128**, were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

SCR 103, SCR 109, SCR 110, SJM 102, and **SJM 103** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Secretary of State.

April 2, 2003

Mr. President:

I return herewith **S 1051**, as amended in the House, and **S 1084**, as amended in the House, which have passed the House.

JUKER, Chief Clerk

On request by Senator Goedde, granted by unanimous consent, **S 1051**, as amended in the House, was referred to the Tenth Order of Business, Motions and Resolutions, for consideration as to possible concurrence in the House amendments.

On request by Senator Cameron, granted by unanimous consent, **S 1084**, as amended in the House, was referred to the Tenth Order of Business, Motions and Resolutions, for consideration as to possible concurrence in the House amendments.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced that the Education Committee report relative to the Gubernatorial appointment of Laird Stone was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Noh, seconded by Senator Malepeai, the Gubernatorial appointment of Laird Stone as a member of the Idaho State Board of Education was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that **HJM 10** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Bailey, seconded by Senator Calabretta, **HJM 10** was adopted by voice vote, title was approved, and the memorial ordered returned to the House.

The President announced that the House amendments to **S 1051**, as amended in the House, were before the Senate for consideration as to possible concurrence, the question being, "Shall the Senate concur in the House amendments to **S 1051**, as amended in the House?"

On request by Senator Goedde, granted by unanimous consent, the Senate concurred in the House amendments to **S 1051**, as amended in the House.

S 1051, as amended in the House, was referred to the Judiciary and Rules Committee for engrossing.

The President announced that the House amendments to **S 1084**, as amended in the House, were before the Senate for consideration as to possible concurrence, the question being, "Shall the Senate concur in the House amendments to **S 1084**, as amended in the House?"

On request by Senator Cameron, granted by unanimous consent, the Senate concurred in the House amendments to **S 1084**, as amended in the House.

S 1084, as amended in the House, was referred to the Judiciary and Rules Committee for engrossing.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

H 381, as amended, by Ways and Means Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

H 386, as amended, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 367, by Education Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1178 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sorensen arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Goedde, McWilliams. Total - 2.

Total - 35.

Whereupon the President declared **S 1178** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, **SJR 101** retained its place on the Third Reading Calendar.

On request by Senator Sorensen, granted by unanimous consent, **S 1177** retained its place on the Third Reading Calendar for one legislative day.

The President called Senator Hill to the chair.

S 1176 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Hill, Little, Lodge, McKenzie, Noble, Noh, Pearce, Richardson, Sorensen, Stegner, Sweet, Williams. Total - 22.

NAYS--Andreason, Burkett, Calabretta, Ingram, Kennedy, Keough, Malepeai, Marley, Schroeder, Stennett, Werk. Total - 11.

Absent and excused--Goedde, McWilliams. Total - 2.

Total - 35.

Whereupon the Acting President declared **S 1176** passed, title was approved, and the bill ordered transmitted to the House.

S 1115, as amended in the House, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Burkett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Goedde, McWilliams. Total - 2.

Total - 35.

Whereupon the Acting President declared **S 1115**, as amended in the House, passed, title was approved, and the bill was referred to the Judiciary and Rules Committee for enrolling.

H 335, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Goedde, McWilliams. Total - 2.

Total - 35.

Whereupon the Acting President declared **H 335**, as amended, passed, title was approved, and the bill ordered returned to the House.

H 336, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Marley arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Goedde, McWilliams. Total - 2.

Total - 35.

Whereupon the Acting President declared **H 336**, as amended, passed, title was approved, and the bill ordered returned to the House.

H 337 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sweet arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Goedde, McWilliams. Total - 2.

Total - 35.

Whereupon the Acting President declared **H 337** passed, title was approved, and the bill ordered returned to the House.

H 338 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 31.

NAYS--Burkett, Calabretta, Keough. Total - 3.

Absent and excused--McWilliams. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 338** passed, title was approved, and the bill ordered returned to the House.

The President returned to the Chair.

H 369 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Darrington and Lodge arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Hill, McWilliams. Total - 2.

Total - 35.

Whereupon the President declared **H 369** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, **H 279** retained its place on the Third Reading Calendar for one legislative day.

H 358 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sorensen arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Gannon, Goedde, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noh, Pearce, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 28.

NAYS--None.

Absent and excused--Davis, Geddes, Hill, Ingram, McWilliams, Noble, Richardson. Total - 7.

Total - 35.

Whereupon the President declared **H 358** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Stegner, granted by unanimous consent, **SJR 101** was placed before the Senate for consideration at this time.

SJR 101, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Schroeder and Goedde arose as co-sponsor of the bill and opened the debate. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Bunderson, Burkett, Calabretta, Compton, Davis, Gannon, Goedde, Ingram, Kennedy, Keough, Malepeai, Marley, Noh, Schroeder, Sorensen, Stegner, Stennett, Werk. Total - 18.

NAYS--Andreason, Bailey, Brandt, Burtenshaw, Cameron, Darrington, Geddes, Hill, Little, Lodge, McKenzie, Noble, Pearce, Richardson, Sweet, Williams. Total - 16.

Absent and excused--McWilliams. Total - 1.

Total - 35.

Less than two-thirds having voted in the affirmative, the President declared that the Senate had failed to adopt **SJR 101** and ordered the resolution filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, **H 283**, as amended, having been held, retained its place on the Third Reading Calendar for Monday, April 7, 2003.

On request by Senator Davis, granted by unanimous consent, **H 264** and **H 317**, having been held, retained their place on the Third Reading Calendar for Tuesday, April 8, 2003.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills, with **H 264** and **H 317** remaining at the foot of the Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:20 p.m. until the hour of 9 a.m., Friday, April 4, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary